

COMMON CARRIER BUREAU

AUG 2 1978

TARIFFS AND SERVICES

DIVISION

RECEIVED

JUL 24 1978

CHARLES D. FERRIS

CHAIRMAN

RECEIVED

COMMISSIONERS

ROBERT K. KOGER, CHAIRMAN

BEN E. RONEY

DR. LEIGH H. HAMMOND

SARAH LINDSAY TATE

DR. ROBERT FISCHBACH

JOHN W. WINTERS

EDWARD B. HIPP

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

State of North Carolina

Utilities Commission

Raleigh 27602

July 20, 1978

LOCKET FILE COPY ORIGINAL AUG 2 1978

Honorable Charles D. Ferris  
Chairman  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

CHIEF, COMMON CARRIER BUREAU

Re: Regulation of Utility Pole Attachments  
by the North Carolina Utilities Commission

Dear Chairman Ferris:

By letter dated May 12, 1978, as Chairman of the North Carolina Utilities Commission, I certified to the Federal Communications Commission that the North Carolina Utilities Commission regulates the rates, terms, and conditions of utility pole attachments within the State of North Carolina. This certification was made pursuant to Section 224(c) of the "Communications Act Amendments of 1978", Public Law 95-235. The North Carolina Commission was of the opinion that its broad powers to set rates for public utilities under its jurisdiction enabled it to so certify.

The North Carolina Utilities Commission has reconsidered its legal authority to regulate rates for pole attachments, and has decided that it is presently without authority to regulate such tariffs. Accordingly, we are withdrawing our prior certification to the FCC.

Very truly yours,

NORTH CAROLINA UTILITIES COMMISSION

*Robert K. Koger*  
Robert K. Koger  
Chairman

RKK/RPG/lmm

cc: Hon. Hugh A. Wells  
Director  
Public Staff

100-5  
2/10/78  
OFFICE OF CHAIRMAN CHARLES D. FERRIS

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

*T. Washington*

DATE

*5/17/78*

To:

- |  |  |
|--|--|
| <input type="checkbox"/> COMMISSIONER LEE      | <input type="checkbox"/> CHIEF, FIELD OPERATIONS BUREAU          |
| <input type="checkbox"/> COMMISSIONER QUELLO   | <input type="checkbox"/> CHIEF, BROADCAST BUREAU                 |
| <input type="checkbox"/> COMMISSIONER WASHBURN | <input checked="" type="checkbox"/> CHIEF, COMMON CARRIER BUREAU |
| <input type="checkbox"/> COMMISSIONER FOGARTY  | <input type="checkbox"/> CHIEF, SAFETY & SPECIAL BUREAU          |
| <input type="checkbox"/> COMMISSIONER WHITE    | <input type="checkbox"/> CHIEF, CABLE TELEVISION BUREAU          |
| <input type="checkbox"/> COMMISSIONER          | <input type="checkbox"/> CHIEF, ADM. LAW JUDGES                  |
| <input type="checkbox"/> EXECUTIVE DIRECTOR    | <input type="checkbox"/> CHIEF, OPINIONS & REVIEW                |
| <input type="checkbox"/> GENERAL COUNSEL       | <input type="checkbox"/> PUBLIC INFORMATION OFFICER              |
| <input type="checkbox"/> CHIEF ENGINEER        | <input type="checkbox"/> SECRETARY                               |
| <input type="checkbox"/> CHIEF, PLANS & POLICY | <input type="checkbox"/> CHIEF, MINUTE & RULES DIVISION          |
| <input type="checkbox"/> REVIEW BOARD          | <input type="checkbox"/> LIBRARY                                 |
| <input type="checkbox"/> .....                 | <input type="checkbox"/> .....                                   |

From:

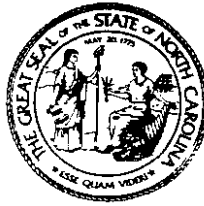
*720/cap*

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> APPROPRIATE HANDLING | <input type="checkbox"/> PREPARE REPLY FOR CHAIRMAN'S SIGNATURE           |
| <input type="checkbox"/> NO REPLY NECESSARY              | <input type="checkbox"/> PREPARE REPLY FOR EXECUTIVE DIRECTOR'S SIGNATURE |
| <input type="checkbox"/> PER CONVERSATION                | <input type="checkbox"/> PREPARE REPLY FOR BUREAU CHIEF'S SIGNATURE       |
| <input type="checkbox"/> FOR YOUR INFORMATION            |   |
| <input type="checkbox"/> TO BE REWRITTEN                 |   |
| <input type="checkbox"/> NOTE AND RETURN                 |   |
| <input type="checkbox"/> FOR DISTRIBUTION                |   |
| <input type="checkbox"/> NOTE AND FILE                   |   |

REMARKS:

FILED/ACCEPTED

APR 26 2010



COMMISSIONER Federal Communications Commission  
Office of the Secretary

ROBERT K. KOGER, CHAIRMAN

BEN E. RONEY

DR. LEIGH H. HAMMOND

SARAH LINDSAY TATE

DR. ROBERT FISCHBACH

JOHN W. WINTERS

EDWARD B. HIPPE

State of North Carolina

Utilities Commission

Raleigh 27602

May 12, 1978

COMMON CARRIER BUREAU  
MAY 19 1978  
TARIFFS AND SERVICES  
DIVISION

RECEIVED

MAY 19 1978

Honorable Charles D. Ferris  
Chairman  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

CHIEF, COMMON CARRIER BUREAU

Re: Regulation of Utility Pole  
Attachments by North Carolina  
Utilities Commission

Dear Chairman Ferris:

This letter is written with respect to the "Communications Act Amendments of 1978", Public Law 95-235, regarding regulation of utility pole attachments. Upon a review of the provisions of Chapter 62 of the General Statutes of North Carolina, the Commission is of the opinion that the North Carolina Utilities Commission has lawful authority to regulate the rates, terms and conditions of utility pole attachments.

Accordingly, pursuant to Section 224(c), the Commission certifies to the Federal Communications Commission that:

- (a) The North Carolina Utilities Commission regulates the rates, terms, and conditions of utility pole attachments within the State of North Carolina, and
- (b) In so regulating such rates, terms and conditions, the North Carolina Utilities Commission has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services."

RECEIVED

MAY 16 1978

LES D. FE

Honorable Charles D. Ferris

Page 2

May 12, 1978

---

The North Carolina Utilities Commission is in the process of requiring regulated electric and telephone utilities under its jurisdiction to file tariffs with respect to utility pole attachments and rules and regulations in regard thereto which will be subject to complaint and hearing.

Very truly yours,

NORTH CAROLINA UTILITIES COMMISSION



Robert K. Koger  
Chairman

RKK/MWH/lrh

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

COMMISSIONERS

ROBERT K. KOGER, CHAIRMAN  
BEN E. RONEY  
DR. LEIGH H. HAMMOND  
SARAH LINDSAY TATE  
DR. ROBERT FISCHBACH  
JOHN W. WINTERS  
EDWARD B. HIPPE



State of North Carolina

Utilities Commission

Raleigh 27602

May 12, 1978

COMMON CARRIER BUREAU  
MAY 11 1978  
TARIFFS AND SERVICES  
DIVISION

RECEIVED

MAY 19 1978

Honorable Charles D. Ferris  
Chairman  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

CHIEF, COMMON CARRIER BUREAU

Re: Regulation of Utility Pole  
Attachments by North Carolina  
Utilities Commission

Dear Chairman Ferris:

This letter is written with respect to the "Communications Act Amendments of 1978", Public Law 95-235, regarding regulation of utility pole attachments. Upon a review of the provisions of Chapter 62 of the General Statutes of North Carolina, the Commission is of the opinion that the North Carolina Utilities Commission has lawful authority to regulate the rates, terms and conditions of utility pole attachments.

Accordingly, pursuant to Section 224(c), the Commission certifies to the Federal Communications Commission that:

- (a) The North Carolina Utilities Commission regulates the rates, terms, and conditions of utility pole attachments within the State of North Carolina, and
- (b) In so regulating such rates, terms and conditions, the North Carolina Utilities Commission has the authority to consider and does consider the interests of the subscribers of cable television services, as well as the interests of the consumers of the utility services."

RECEIVED

MAY 16 1978

CHARLES D. FERRIS

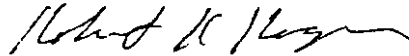
Honorable Charles D. Ferris  
Page 2  
May 12, 1978

---

The North Carolina Utilities Commission is in the process of requiring regulated electric and telephone utilities under its jurisdiction to file tariffs with respect to utility pole attachments and rules and regulations in regard thereto which will be subject to complaint and hearing.

Very truly yours,

NORTH CAROLINA UTILITIES COMMISSION



Robert K. Koger  
Chairman

RKK/MWH/lrh



COMMISSIONERS  
BERT K. KOGER, CHAIRMAN  
J. E. HONEY  
LEIGH H. HAMMOND  
JAH LINDSAY TATE  
ROBERT FISCHBACH  
JEW WINTERS  
NATHAN R. HUFF

State of North Carolina  
Utilities Commission  
Raleigh 27602

FILED/ACCEPTED

APR 26 2010

Federal Communications Commission  
Office of the Secretary

July 20, 1978

Honorable Charles D. Ferris  
Chairman  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

Re: Regulation of Utility Pole Attachments  
by the North Carolina Utilities Commission


Dear Chairman Ferris:

By letter dated May 12, 1978, as Chairman of the North Carolina Utilities Commission, I certified to the Federal Communications Commission that the North Carolina Utilities Commission regulates the rates, terms, and conditions of utility pole attachments within the State of North Carolina. This certification was made pursuant to Section 224(c) of the "Communications Act Amendments of 1978", Public Law 95-235. The North Carolina Commission was of the opinion that its broad powers to set rates for public utilities under its jurisdiction enabled it to so certify.

The North Carolina Utilities Commission has reconsidered its legal authority to regulate rates for pole attachments, and has decided that it is presently without authority to regulate such tariffs. Accordingly, we are withdrawing our prior certification to the FCC.

Very truly yours,

NORTH CAROLINA UTILITIES COMMISSION

  
Robert K. Koger  
Chairman

RKK/RPG/lmm

cc: Hon. Hugh A. Wells  
Director  
Public Staff

bcc: Charles B. Winberry, Jr.  
Biggs, Meadows, Batts, Etheridge  
& Winberry

State of North Carolina

Utilities Commission

Raleigh

DOCKET NO. M-100, SUB 77

FILED/ACCEPTED

APR 26 2010

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Federal Communications Commission  
Office of the Secretary

In the Matter of

Regulation of Utility Pole	)	
Attachments by the North	)	ORDER DISMISSING DOCKET
Carolina Utilities Commission	)	

TO ALL TELEPHONE AND ELECTRIC COMPANIES

BY THE COMMISSION: By Memorandum dated May 26, 1978, the Commission directed all electric and telephone utilities under its jurisdiction to file tariffs and proposed regulations with respect to CATV pole attachments, subject to complaint and hearing. By Order of June 27, 1978, the time for filing tariffs and proposed regulations has been extended to and including August 4, 1978.

Upon its own motion, the Commission has reconsidered the question of whether it has jurisdiction to fix rates and charges for CATV pole attachments and has concluded that it has no such jurisdiction under the Public Utilities Act of 1963. (Chapter 62 of the North Carolina General Statutes)

Unless a power or authority has been granted to the Commission by the legislature, it is without authority to regulate that activity. WCOG, Inc., et al vs. Southern Bell, et al (Docket No. P-89, 64 PUR 3rd 314, decided June 7, 1966). While the Commission believes that state regulation of CATV pole attachments is preferable to federal regulation, this belief cannot alter the fact that there is currently no statutory authority giving the Commission such power.



IT IS, THEREFORE, ORDERED that the Commission directive to file tariffs and proposed regulations relating to CATV pole attachments is hereby rescinded.

ISSUED BY ORDER OF THE COMMISSION.

This 19th day of July 1978.

NORTH CAROLINA UTILITIES COMMISSION

Anne L. Olive  
Anne L. Olive, Deputy Clerk

(SEAL)